

U.S. Patent Application Serial No. 10/043,361
Applicant: Ehrman, et al.

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REMARKS

Reconsideration of the present application is respectfully requested in view of the present amendments and the following remarks. As of the present *Final Office Action*, claims 31-50 were pending with claims 1-30 being canceled by previous amendments.

After entry of this amendment, claims 31-57 will be pending and claims 1-30 have been cancelled.

Revised Response Date for the Office Action

Prior to November 16, 2006, the undersigned attorney contacted Examiner Kramer and on November 16, 2006 the undersigned attorney and Examiner Kramer had a phone conference in which the undersigned attorney brought to Examiner Kramer's attention that the *Office Action*, contained an error. Specifically, under the section entitled "Claim Rejections - 35 USC § 103", the rejection reads as follows: "Claims 21-23, 28-30 ?????? rejected under 35 U.S.C. 102 (b) as being anticipated by Hassett.". Unfortunately, this statement is unclear because claims 21-23 and 28-30 have already been canceled and because the explanation of the rejection includes multiple references in addition to Hassett.

In the phone conference, Examiner Kramer apologized for the error and explained that he intended to reject claims 31 and 33-50 under 35 U.S.C. 103 as unparentable over Hassett in view of Brockelsby. Additionally, Examiner Kramer agreed to send a replacement *Office Action* to clarify the rejection. MPEP § 710.06 states that if an "error is brought to the attention of the Office within the period for reply set in the Office action but more than 1 month after the date of the Office action, the Office will set a new period for reply, if requested to do so by the applicant, to substantially equal the time remaining in the reply period." Further the section states that "the new period for reply must be at least 1 month and would run from the date the error is corrected. It is the undersigned attorney's understanding that the date for response to the *Office Action* should be 1 month from the date of mailing of the corrected *Office Action*. However, since a review of PAIR indicates that a replacement *Office Action* has not been mailed, the Applicants are submitting this *Preliminary Amendment to RCE* within one month after the telephone conference with Examiner Kramer to avoid doubt with respect to whether this response was filed timely.

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Claim Rejections

Claims 31 and 33-50 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,347,274 to Hassett (hereafter "Hassett") in light of U.S. Patent No. 5,631,642 to Brockelsby et al. (hereafter "Brockelsby"). By the present *Preliminary Amendment to RCE*, claims 51-57 have been added. The Applicants respectfully submit that the pending claims are patentably distinct from the combination of Hassett and Brockelsby, and are in condition for allowance.

Hassett is directed towards a hazardous waste system that provides monitoring to verify the location and condition of each shipment. *See Abstract of Hassett*. Hassett monitors the hazardous waste being shipped and reports data to a central data bank through a series of base stations. If a hazardous condition is detected, the central data bank can send data to the unit to provide instructions to the driver of the vehicle. For example, the instructions may include updated routing information to redirect the vehicle. However, Hassett does not describe a system in which access to a mobile asset is controlled based on data entered or monitored at the mobile asset. Accordingly, the pending claims were previously amended to more clearly articulate this feature of the present invention.

Brockelsby is directed toward a mobile object tracking system. More specifically, Brockelsby discloses a system using a plurality of signpost stations arranged to track an object moving within a geographic region. *See Brockelsby Abstract*. In operation, each signpost station receives object identification codes from objects near the signpost station and transmits those object identification codes to a central station for tracking the location of each object. *See Brockelsby Col. 2, lines 5-65*. However, Brockelsby does not describe a system in which access to a mobile asset is controlled based on data entered or monitored at the mobile asset. In fact, Brockelsby specifically teaches against controlling an object remotely. *See Brockelsby Col. 1,*

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lines 41-48; col. 4, line 8 through col. 5, line 53. Rather, Brockelsby discloses tracking down a vehicle using a recovery vehicle if certain conditions are detected (i.e., vehicle stolen). *See Brockelsby Col. 4, line 8 through col. 5, line 53.*

The only mention in Brockelsby about a system that remotely controls a mobile asset is in the background section of the patent. Brockelsby mentions a South African patent that describes a security system in which a signal is sent from a security station to a vehicle to immobilize the vehicle. However, Brockelsby specifically teaches against such an arrangement, due to safety concerns associated with immobilizing a vehicle. *See Brockelsby, Col. 1, Lines 41-44.* Accordingly, Brockelsby specifically teaches against any combination with Hassett that would yield a system that remotely controls a mobile asset. Accordingly, the Applicants respectfully submit that claims 31-56 are patentable over the cited references and request that the present rejection be lifted.

More specifically, independent claim 31 recites the limitation of "an asset monitor, for each of a plurality of mobile assets, for monitoring a respective mobile asset to collect asset monitored data, for wirelessly receiving asset control data originated at the management computer, and *for controlling operation of the mobile asset in view of the asset monitored data and the received asset control data.*" The limitation of "controlling operation of the mobile asset" is not disclosed in Hassett nor Brockelsby. In fact, Brockelsby specifically teaches against controlling a mobile asset. Rather, Brockelsby teaches the a recovery vehicle may be dispatched to track down a vehicle under certain circumstances (i.e., vehicle stolen). *See Brockelsby Col. 4, line 8 through col. 5, line 53.*

Additionally, neither Hassett, Brockelsby, nor the combination thereof teach each and every limitation of claim 44. Specifically, claim 44 recites the limitation of "comparing the asset

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monitored data to the asset control data to determine whether the mobile asset should be allowed to operate.” This feature is not disclosed in any of the cited references. Even if the system discussed in the background of Brockelsby were considered, that system immobilizes a vehicle when a signal is received from a security station. The background material, however, does not disclose a system which compares the asset monitored data to the asset control data to determine whether the mobile asset should be allowed to operate. Rather, that system appears to receive a signal indicating that a vehicle has been stolen and transmits a signal to immobilize the vehicle. Accordingly, it does not disclose comparing asset monitored data to control data to make any determination.

Accordingly, claim 44 patentable over the combination of Hassett and Brockelsby because Brockelsby specifically teaches against a system that remotely controls a remote asset and because none of the references disclose a system that compares the asset monitored data to the asset control data to determine whether the mobile asset should be allowed to operate.

Additionally, new claims 51-57 have been amended to claim certain embodiments of the present invention which include the feature of controlling non-immobilized operation of the mobile asset. The Applicants respectfully submit that none of the cited references disclose controlling non-immobilized operation of a mobile asset. The Applicants respectfully submit that controlling non-immobilized operation of the mobile asset is fully enabled by the original specification. *See Publication Number US2003/0130913 ¶ 0171 and 0176.* For example, the specification describes several non-immobilized operation modes, such as placing the mobile asset in creeper mode, turning on a signal such as a light or siren, and limiting operation to a supervisor or maintenance personnel. Notably, none of the cited references disclose providing

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non-immobilized control of a mobile asset. Accordingly, the Applicants respectfully submit that claims 51-57 are in condition for allowance.

The Applicants respectfully submit that the inventions claimed in claims 31-57 are distinctly different from the combination of Hassett and Brockelsby as Hassett and Brockelsby fail to describe several features of the present invention.

Therefore, Applicants respectfully submit that the rejections should be withdrawn and that claims 31-57 are in condition for allowance.

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Through the present *Preliminary Amendment to RCE*, seven (7) claims were added. Following the entry of these claim amendments, twenty-seven (27) claims will be pending, two of which are independent claims. Accordingly, a fee of \$175 for the additional claims is due. Additionally, enclosed with this *Preliminary Amendment to RCE*, is a Request for Continued Examination Transmittal. Accordingly, the Applicants believe the total fees due in connection with the filing of these papers is \$570.00. Further, as stated above, the Applicants respectfully submit that, due to the error in the *Office Action*, this response is being timely filed within one month of the correction of the error in accordance with MPEP § 710.06, so no extension of time fees are believed due. Accordingly, the Commissioner is authorized to debit deposit account No. 20-1507 for these and any other required fees, including an extension of time fee if necessary.

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CONCLUSION

The foregoing is submitted as a full and complete response to the *Office Action* mailed August 16, 2006. It is respectfully submitted that claims 31-56 are in condition for allowance and that each point raised in the *Office Action* with regard to these claims has been fully addressed. Therefore, it is respectfully requested that the rejections be withdrawn and that the case be processed to issuance in accordance with Patent Office Business.

If the Examiner believes that there are any issues that can be resolved by a telephone conference, or that there are any informalities that can be corrected by an Examiner's amendment, please contact James Schutz at 404.885.3498.

Respectfully submitted,

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